

# Arizona State Treasurer's Office

1700 West Washington St.  
First Floor  
Phoenix, Arizona 85007



Request for Proposal # 15-01  
Investment Management Services

*Scaled Written Proposals will be  
Accepted until:*

June 1st, 2015  
2:00 p.m. (MST)

Jeff DeWit, State Treasurer

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## **Executive Summary**

### **1. Introduction**

The Arizona State Treasurer's Office (ASTO) is soliciting proposals from firms interested in providing fixed income and/or equity investment management services for the ASTO. More detailed descriptions of these services are set forth under the heading of "Scope of Services."

### **2. Purpose**

The ASTO is responsible for the investment of approximately \$13 Billion in investments on behalf of the State of Arizona, its agencies, political subdivisions and the Permanent Land Trust Endowment.

This Request for Proposal (RFP) is being issued by the ASTO to satisfy the need to hire a firm or firms to provide investment management services for the office to supplement existing internal management of these portfolios. Currently, all Assets Under Management (AUM) are managed by both internal and external portfolio managers. The ASTO is seeking proposals from firms that would manage a portion of these portfolios alongside the existing internal investment staff.

The firm or firms selected should be considered extensions of the internal investment team and will follow the same investment mandate for each investment pool managed by the ASTO.

Firms may bid on all or any portion of the portfolios included in this RFP.

## **Offer and Acceptance**

### **1. Offer**

- 1.1. The undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, Scope of Services and amendments to the solicitation.

By: \_\_\_\_\_

Title\_\_\_\_\_

Company\_\_\_\_\_

Date\_\_\_\_\_

- 1.2. By signature in the offer section above, the Offeror certifies:

- 1.2.1. The submission of the offer did not involve collusion or other anti-competitive practices.
- 1.2.2. The Offeror shall not discriminate against any employee or applicant for employment in violation of [Federal Executive Order 11246](#), [State Executive Order 2009-09](#) or Arizona Revised Statute's (A.R.S.) [41-1461 through 1465](#).
- 1.2.3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.

### **2. Acceptance**

The Offer is hereby accepted.

**Office of the State Treasurer**

By: \_\_\_\_\_

Title\_\_\_\_\_

Date\_\_\_\_\_

## **Special Instructions to Offer**

### **1. Proposal**

Proposals are due at the address listed below on or before 2:00 p.m. (MST) on Monday, June 1st, 2015. Responses must include an original plus five (5) additional copies that will be used in the evaluation process. An electronic copy in addition to the original and five hard copies shall also be sent to [RFPproposal@aztreasury.gov](mailto:RFPproposal@aztreasury.gov). The original copy of the proposal should be clearly labeled "ORIGINAL". The material should be in the same sequence as stated in the RFP. Proposals received after the date and time specified herein will not be considered. Proposals shall be opened publicly at the time and place designated on the cover page of this document. The name of each Offeror shall be read publicly and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing Offerors during any potential process of negotiation. Prices will **NOT** be read at the opening. Proposals will not be subject to public inspection until after the contract is awarded. Proposals shall be irrevocable offers for one hundred-twenty (120) days after the proposal due date.

Investment Management RFP Committee  
State of Arizona, State Treasurer's Office  
State Capital 1<sup>st</sup> Floor  
1700 W. Washington St.  
Phoenix, AZ 85007  
Email: [RFPproposal@aztreasury.gov](mailto:RFPproposal@aztreasury.gov)

### **2. Evaluation Criteria**

- 2.1. These minimum criteria must be met for a Proposal to be considered for award:
- 2.2. The offer must be submitted by the deadline.
- 2.3. Offeror must provide a completed contract.
- 2.4. The Offeror must state its interest in performing particular services.
- 2.5. Offeror's answers to the Offeror Questionnaire Exhibit B, Product Information Exhibit C and Performance Exhibit D must be responsive and complete.
- 2.6. Offeror's eligible to submit an offer must demonstrate:
  - 2.6.1. \$10 Billion or more of current AUM.
  - 2.6.2. At least 5 years' experience of managing fixed income and/or equity portfolios of at least \$1 Billion by the primary portfolio manager.
  - 2.6.3. Current experience in managing a portfolio of \$1 Billion or more of short and medium term fixed income assets for a State, County or City Treasurer's office.
  - 2.6.4. Current experience in managing investment grade corporate bonds, agency mortgages, municipal bonds, asset-backed securities, commercial paper, discount notes and treasury bills, notes and bonds.

An award shall be made to the responsible Offeror whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below. The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that the State of Arizona is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal as to the responsiveness of the proposal and the responsibility of the Offeror.

<b>Conformance to Scope of Services</b>	25%
<b>Ability to Perform the Scope of Services</b>	25%
<b>Experience and Expertise of the Firm/Personnel</b>	25%
<b>Cost of Services</b>	25%
<b>Total</b>	100%

### **3. Pricing**

Provide a price schedule for the total cost of providing all services necessary under this proposal based on the amount of AUM on an annual basis. For example, if awarded \$200 Million in assets to manage for pool X and \$100 Million in assets to manage for pool Y, please breakdown the costs for pool X and pool Y individually and then combined costs for pools X and Y in the aggregate.

### **4. Conformance to Scope of Services**

The Offeror Questionnaire Exhibit B, Product Information Exhibit C and Performance Exhibit D requires Offeror to submit a written narrative which demonstrates the method or manner in which the Offeror proposes to satisfy the requirements of the Scope of Services. The language of the narrative should be straight forward and limited to fact, solutions to problems, and plans of proposed action. The written narrative should include specific responses to the items listed in the scope of services.

### **5. Ability to Perform the Scope of Services**

The Offeror should present a proposed method of satisfying the requirements of the Scope of Services as specified herein.

The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described.

Indicate the number of full time dedicated resources (individuals) you will provide in support of the ASTO account if awarded the contract. Also specify if the person managing these resources will be exclusively assigned and responsible for this contract only. If the account manager is working on other accounts, specify the percent of time this individual will dedicate to this contract.

Describe how your firm will organize, as a team, to optimize its responsiveness to the ASTO. Include how work is reviewed from junior to senior to executive level staff.

The offeror should present examples of similar governmental processes and similar governmental clients that will indicate successful relationships between the offeror and client.

### **6. Experience and Reliability**

Please submit any information which documents successful and reliable experience in past performances related to the required services contained herein. The State will evaluate the Offeror's experience and expertise based on the responses to the Offeror Questionnaire attached as Exhibit B, Product Performance and Exhibit C and Performance attached as Exhibit D.

# **Uniform Instructions to Offeror's**

## **1. Definition of Terms**

As used in these Instructions, the terms listed below are defined as follows:

- 1.1. "Attachment" means any item the Solicitation requires an Offeror to submit as part of the offer.
- 1.2. "Contract" means the combination of the Solicitation, including the Special and Uniform Instructions to Offeror's, the Special and Uniform Terms and Conditions, and the Specifications and Statement of Scope of Services; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. "Contract Amendment" means a written document signed by the ASTO that is issued for the purpose of making changes in the Contract.
- 1.4. "Contractor" means any person who has a Contract with the State.
- 1.5. "Days" means calendar days unless otherwise specified.
- 1.6. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. "Offer" means bid, proposal or quotation.
- 1.8. "Offeror" means a vendor who responds to a Solicitation.
- 1.9. "Solicitation" means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").
- 1.10. "Solicitation Amendment" means a written document that is signed by the ASTO and issued for the purpose of making changes to the Solicitation.
- 1.11. "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or my service required for the performance of the Contract.
- 1.12. "State" or "State Treasurer" or "ASTO" means the State of Arizona and Department or Agency of the State that executes the Contract.

## **2. Inquiries**

- 2.1. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.
- 2.2. Solicitation Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this

Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

- 2.3. Submission of Inquiries. The ASTO or the person identified in the Solicitation as the contact for inquiries requires that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.
- 2.4. Timeliness. Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
- 2.5. No Right to Rely on Verbal Responses. An Offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the solicitation.
- 2.6. Solicitation Amendments. The Solicitation shall only be modified by a Solicitation Amendment.
- 2.7. Pre-Offer Conference. If a pre-Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.
- 2.8. Persons with Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

### **3. Offer Preparation**

- 3.1. Forms: No Facsimile, Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids.
- 3.2. Typed or Ink; Corrections. The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.
- 3.3. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, shall result in rejection of the Offer.



- 3.4. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the ASTO in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.
- 3.4.1. Invitation for Offers. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.
- 3.4.2. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.
- 3.5. Subcontracts. The successful Offeror shall not subcontract any of its responsibilities in the Offer without the prior written consent of the State.
- 3.6. Cost of Offer Preparation. The State will not reimburse any Offeror the cost of responding to a Solicitation.
- 3.7. Solicitation Amendments. Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a Solicitation Amendment may result in rejection of the Offer.
- 3.8. Federal Excise Tax. The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.
- 3.9. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.
- 3.9.1. Employee Identification. Offeror agrees to provide an employee identification number or social security number for the purposes of reporting to appropriate taxing authorities, monies paid under this contract. If the federal identifier of the Offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under [26 U.S.C. § 6041A](#).
- 3.10. Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be included in the pricing offered in the solicitation. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.
- 3.11. Disclosure. If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the

suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

- 3.12. Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

- 3.12.1. Special Terms and Conditions;
- 3.12.2. Uniform Terms and Conditions;
- 3.12.3. Statement or Scope of Services, Exhibit A;
- 3.12.4. Offeror Questionnaire, Exhibit B
- 3.12.5. Product Information, Exhibit C
- 3.12.6. Performance, Exhibit D
- 3.12.7. Special Instructions to Offerors;
- 3.12.8. Uniform Instructions to Offerors; and,
- 3.12.9. Other documents referenced or included in the Solicitation

#### **4. Submission of Offer**

- 4.1. Sealed Envelope or Package. Each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.
- 4.2. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
- 4.3. Public Record. All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.
- 4.4. Non-collusion, Employment, and Services. By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
- 4.4.1. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and;
  - 4.4.2. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, state and local laws and executive orders regarding employment.

#### **5. Miscellaneous Considerations for Evaluation**

- 5.1. Unit Price Prevails. In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

- 5.2. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purposes of evaluating that price.
- 5.3. Offer Acceptance Period. An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred-twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposal, a Offeror shall hold its Offer open for one hundred-twenty (120) days from the Best and Final Offer due date.

## **6. Waiver of Rejection Rights**

- 6.1. Notwithstanding any other provision of the Solicitation, the State reserves the right to:
  - 6.1.1. Waive any minor informality;
  - 6.1.2. Reject any and all Offers or portions thereof; or
  - 6.1.3. Cancel the Solicitation.

## **7. Award**

- 7.1. Contract inception. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the ASTO's (or designee's) signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.
- 7.2. Effective Date. The effective date of this Contract shall be the date that the ASTO or designee signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

## **8. Protests**

- 8.1. A protest shall comply with and be resolved according to A.R.S [Title 41, Chapter 23, Article 9](#) and rules adopted there under. Protests shall be in writing and be filed with the ASTO. A protest of a Solicitation shall be received by the ASTO before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:
  - 8.1.1. The name, address and telephone number of the protester;
  - 8.1.2. The signature of the protester or its representative;
  - 8.1.3. Identification of the purchasing agency and the Solicitation or Contract number;
  - 8.1.4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
  - 8.1.5. The form of relief requested.

## **Special Terms and Conditions**

### **1. Contract.**

- 1.1. The contract between the State of Arizona and the Contractor shall consist of the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by the Contractor, their responses to any requests for clarifications and/or their best and final offer. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the solicitation as amended shall govern. However, the State reserves the right to clarify any contractual requirement in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the solicitation as amended or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the solicitation shall govern.
- 1.2. The State's primary contract for this solicitation and resultant contracts shall be:  
  
Investment Management RFP Committee  
State of Arizona, State Treasurer's Office  
State Capital 1<sup>st</sup> Floor  
1700 W. Washington St.  
Phoenix, AZ 85007  
Phone: (602) 542-7800, Fax (602) 542-7176  
Email: [RFPproposal@aztreasury.gov](mailto:RFPproposal@aztreasury.gov)
- 1.3. Contract Restructure. The state may clarify any contract following award. This clarification shall not substantially alter the contents of the contract, but shall only edit and reformat the contract in a manner that will facilitate ease of use, contract administration, and concurrence of the Parties.

### **2. Contract Type.**

The contract shall be firm fixed price.

### **3. Term of Contract.**

The contract term is for a three year period unless canceled, terminated or extended as otherwise provided herein. The contract shall not bind nor purport to bind the State for any contractual commitment in excess of the original contract term.

### **4. Eligible Agencies.**

This contract shall be for the exclusive use by the ASTO.

### **5. Appropriation of Funds.**

Every payment obligation of the Agency under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Agency at the end of the period for which funds are available. No liability shall accrue to the Agency or the State of Arizona in the event this provision is exercised, and neither the Agency nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

## **6. Licenses.**

The Contractor, including personnel assigned to the contract, shall maintain in current status all federal, state and local licenses and permits required for the operation of a business conducted by the Contractor.

## **7. Key Personnel.**

It is essential that the Contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must assign specific individuals to the key positions. Once assigned to work under the contract, key personnel shall not be removed without the prior written notice to the State Procurement Office and must be adequately replaced at the time of such removal.

## **8. Suspension or Debarment Certification.**

By signing the offer section of the Offer and Acceptance page, the bidder or Offeror certifies that the firm, business or person submitting the bid or offer has not been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or local government. Signing the offer section without disclosing all pertinent information about a debarment or suspension shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

## **9. IT 508 Compliance.**

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this solicitation shall comply with [A.R.S. 41-3531](#) and [41-3532](#) and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

## **10. Confidentiality of Records.**

The Contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that information or data in its possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner by it, its agents, officers, or employees. This includes information contained in its records obtained from the State or others, necessary for contract performance. The Contractor shall take all reasonable steps and precautions to safeguard this information and data and shall not divulge the information or data to parties other than those needed for the performance of duties under the contract.

## **11. Financial Soundness.**

The State must be notified in writing of any substantial change in the Offeror's financial condition during the term of the Contract. Failure to notify the State of such a substantial change in financial condition will be sufficient grounds for terminating the Contract.

## **12. Other Contracts.**

The agency may undertake or award other contracts for additional or related work and the Contractor shall fully cooperate with such other contractors and state employees and carefully fit his own work to such additional work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by state employees. The agency shall equitably enforce this section as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

### **13. Price Adjustment.**

- 13.1. Original Price: The original price shall remain the same for the contract term. The ASTO may review a fully documented request for a price increase only on the anniversary or renewal date of the contract, after the contract has been in effect for one year. The requested increase(s) shall be based upon the maximum percentage of price increase for each renewal period that is proposed by the Contractor on the Price Adjustment Sheet and upon a cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product/service contractually covered.
- 13.2. The request shall be submitted from 90 to 120 days prior to the anniversary or renewal date of the contract and shall be a factor in the extension review process.
- 13.3. Failure to submit the request within the stated timeframe and/or failure to supply adequate information with the request may result in the State not considering the request.
- 13.4. The State, at its sole option shall determine whether the requested price adjustment or an alternative option is in the best interest of the State. Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment. Upon approval by the State, the Contractor shall make available all electronic and hard copy catalog/price list updates to all eligible using agencies at no additional cost to the State.
- 13.5. The price adjustment, if approved, will be effective upon the effective date of the contract extension.

### **14. Price Reductions.**

- 14.1. Price reductions may be submitted to the State for consideration at any time during the contract period.

### **15. Pandemic Contractual Performance**

- 15.1. The State shall require a written plan that illustrates how the Contractor shall perform up to contractual standards in the event of a pandemic. The State may require a copy of the plan at any time prior or post award of a contract. At a minimum, the pandemic performance plan shall include:
  - 15.1.1. Key succession and performance planning if there is a sudden significant decrease in Contractor's workforce;
  - 15.1.2. Alternative methods to ensure there are products in the supply chain;
  - 15.1.3. An up to date list of company contacts and organizational chart.
- 15.2. In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights:
  - 15.2.1. After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the Contractor cannot perform to the standards agreed upon in the initial terms;
  - 15.2.2. The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code;

15.2.3. Once the pandemic is officially declared over and/or the Contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s).

15.3. The State, at any time, may request to see a copy of the written plan from the Contractor. The contractor shall produce the written plan within 72 hours of the request.

## **16. Indemnification Clause.**

To the fullest extent permitted by law, Contractor shall defend, indemnify, save and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

## **17. Insurance Requirements:**

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The *Insurance Requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

**A. MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

### **1. Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$ 50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

## 2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000
- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
  - b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

## 3. Worker's Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability

Each Accident	\$1,000,00
Disease – Each Employee	\$1,000,00
Disease – Policy Limit	\$1,000,00

- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under [A.R.S. § 23-901](#), and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).



#### 4. Professional Liability (Errors and Omissions Liability)

- Each Claim \$2,000,000
- Annual Aggregate \$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

#### 5. Commercial Crime Policy or Blanket Fidelity Bond

- Coverage amount: \$35,000,000

Coverage should include but is not limited to:

- a. Employee Dishonesty (to include coverage for theft and mysterious disappearance and inventory shortage)
- b. Money & Securities Inside/Outside
- c. Computer Fraud
- d. Funds Transferred (if applicable)
- e. Forgery or Alteration
- f. The policy shall be endorsed to include the State of Arizona (and the respective agency) as Loss Payee
- g. The policy shall not contain a condition requiring a conviction or arrest in order to file a claim

#### 6. Network Security (Cyber) and Privacy Liability

- Each Claim \$2,000,000
- Annual Aggregate \$2,000,000

- a. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- b. In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- c. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions,

universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

- d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

**B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by [A.R.S. § 41-621](#) (E).
2. Coverage provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

**C. NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the State of Arizona, within two (2) business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice shall be mailed, emailed, hand delivered or sent by facsimile transmission to

Investment Management RFP Committee  
State of Arizona, State Treasurer's Office  
State Capital 1<sup>st</sup> Floor  
1700 W. Washington St.  
Phoenix, AZ 85007  
Fax: (602) 542-7176  
Email: [RFPproposal@aztreasury.gov](mailto:RFPproposal@aztreasury.gov)

**D. ACCEPTABILITY OF INSURERS:** Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A-VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**E. VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of

insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.
- G. **APPROVAL AND MODIFICATIONS:** The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.
- H. **EXCEPTIONS:** In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

# **Uniform Terms and Conditions**

## **1. Definition of Terms**

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

## 2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) [Title 41, Chapter 23](#), and its implementing rules, Arizona Administrative Code (A.A.C.) [Title 2, Chapter 7](#).
- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
  - 2.3.1. Special Terms and Conditions;
  - 2.3.2. Uniform Terms and Conditions;
  - 2.3.3. Statement or Scope of Work;
  - 2.3.4. Specifications;
  - 2.3.5. Attachments;
  - 2.3.6. Exhibits;
  - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

## 3. Contract Administration and Operation

- 3.1. Records. Under [A.R.S. § 35-214](#) and [§ 35-215](#), the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the ASTO.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with [A.R.S. § 41-4401](#), Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section [A.R.S. § 23-214](#), Subsection A.
- 3.11. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

#### **4. Costs and Payments**

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
- 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

- 4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

- 4.5.1. Accept a decrease in price offered by the contractor;
- 4.5.2. Cancel the Contract; or
- 4.5.3. Cancel the contract and re-solicit the requirements.

## 5. Contract Changes

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the ASTO. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the ASTO. The State shall not unreasonably withhold approval.

## 6. Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this
- 6.2. Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.3. Indemnification
- 6.3.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
  - 6.3.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which



result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.4. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to [A.R.S. § 41-621](#) and [§ 35-154](#), this section shall not apply.

6.5. Force Majeure.

6.5.1. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.5.2. Force Majeure shall not include the following occurrences:

- 6.5.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- 6.5.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 6.5.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.5.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.5.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

- 6.6. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

## **7. Warranties**

- 7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
- 7.2.1. Of a quality to pass without objection in the trade under the Contract description;
  - 7.2.2. Fit for the intended purposes for which the materials are used;
  - 7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
  - 7.2.4. Adequately contained, packaged and marked as the Contract may require; and
  - 7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance with Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6. Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to [A.R.S. § 12-510](#), except as provided in [A.R.S. § 12-529](#), the State is not subject to or barred by any limitations of actions prescribed in [A.R.S., Title 12, Chapter 5](#).
  - 7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

## **8. State's Contractual Remedies**

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the

Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

## 9. **Contract Termination**

9.1. Cancellation for Conflict of Interest. Pursuant to [A.R.S. § 38-511](#), the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in [A.R.S. § 38-511](#).

9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three

times the value of the Gratuity offered by the Contractor.

- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. Termination for Default.
- 9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

## 10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to [A.R.S. Title 41, Chapter 23, Article 9](#), and rules adopted thereunder.

## 11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by [A.R.S. § 12-1518](#), except as may be required by other applicable statutes (Title 41).

## 12. Comments Welcome

The ASTO periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to:

Investment Management RFP Committee  
State of Arizona, State Treasurer's Office  
State Capital 1<sup>st</sup> Floor  
1700 W. Washington St.  
Phoenix, AZ 85007  
Phone: (602) 542-7800 , Fax (602) 542-7176  
Email: [RFPproposal@aztreasury.gov](mailto:RFPproposal@aztreasury.gov)

## **Exhibit A**

### **Scope of Services**

#### **General Requirement**

1. This Request for Proposal is to provide the ASTO the ability to contract with external investment management firm(s) for managing all or a portion of 12 fixed income pools and 3 indexed equity pools.
2. Asset Allocations will be determined by ASTO staff from time to time and those allocations to external managers are to be managed to the duration target and credit profile of each pool's objective and policy. For any investment pool that has an external credit rating, the external managers shall manage assets for that pool in line with the criteria required to maintain the highest credit rating possible for that pool. (Currently Pool 5 is rated AAAf/ S1+ by S & P)
3. Securities purchased by an external fund manager will be required to be held at ASTO's custodial bank and will be subject to existing securities lending program operated by the custodial bank. (State Street Bank and Trust)
4. Funds managed by external managers should be considered extensions of the internal investment management team and are expected to follow the quarterly investment plans developed by the internal portfolio managers.
5. Any corporate credit exposure for the fixed income funds is limited to a 5% concentration limit per corporate name per pool assets.
6. Daily market values, holdings reports and compliance of external managers will be provided by ASTO custodial bank as well as monthly performance of accounts. Manager performance will be measured against the benchmarks established for each investment pool.
7. External managers are expected to meet at least quarterly with the Investment Risk Management Committee and annually with the Board of Investment.

## **Exhibit B:** **Offeror Questionnaire**

### **Firm Information**

Please provide the following information:

1. Firm name.
2. Firm business address.
3. Firm telephone number, including country code.
4. Name of individual(s) completing questionnaire.
5. Individual(s) telephone number(s), including country code(s), and address(es).
6. Individual(s) fax number(s), including country code(s).
7. Individual(s) e-mail address(es).
8. Date questionnaire completed (Day/Month/Year).
9. Firm classification:
  - i. Bank
  - ii. Insurance Company
  - iii. SEC-Registered Investment Adviser
  - iv. Non-U.S. Registered Investment Manager (country and entity registered with: \_\_\_\_\_)
  - v. Other; please explain\_\_\_\_\_.
10. Brief history of firm, including ownership, with an emphasis on any material developments in the past three years. Please include prior names and the length of time your organization has been in business under its present name and ownership.
11. Organizational chart of firm.
12. Firm's current succession plans.
13. Name of parent firm (if any) and the name of affiliations or subsidiaries (if any).
14. Date of firm inception.
15. Name of regulatory body overseeing the firm, and the dates of registration, as appropriate.
16. Firm's fidelity bond and fiduciary liability insurance policies, including coverage amounts.
17. Location of nearest office to the Arizona State Treasurer's Office.

## **Client Service**

1. Please indicate the scope of services that will be provided for this account. Please include a description of how client servicing/communication responsibilities are divided between portfolio managers and client service/marketing personnel and how often portfolio managers meet with clients to review the portfolio.
2. Please describe the client-reporting process. How frequently are reports made available?

## **Compliance**

1. Please describe the firm's compliance process.
2. To whom does the chief compliance officer report?
3. When was your firm's last regulatory inspection? Please provide a summary of the inspection results.
4. Has any regulatory body or market authority issued any orders or other sanctions against your firm in the last five years? If yes, please describe.
5. Is your firm or any affiliate the focus of any pending or ongoing litigation, formal investigation, or administrative proceedings related to money management activities? If yes, please describe.
6. Have the principals, managers or staff of your firm been under investigation related to money management activities in the last five years? If yes, please explain.

## **Governance**

1. Please provide a summary of your firm's internal control structure.
2. Please describe any potential conflicts of interest your firm may have in the management of this account. If there are conflicts, please describe how they are addressed.

## **Trading**

1. Please describe any restrictions you may have on client-directed transactions.
2. Please describe your policies and procedures concerning trading and execution, including those relating to;
  - i. how your firm seeks to achieve best execution.
  - ii. how your firm ensures equitable trading for all clients (i.e., the account of one client is not favored above the account of another) and exceptions to this policy, if any.
  - iii. allocation of trades (e.g., by portfolio manager or automated).
  - iv. side-by-side management of hedge funds and other products, if applicable.
  - v. how your firm trades against clients (i.e. taking the opposite position).



3. If the firm is affiliated with a broker/dealer, investment bank, insurance company, or other lines of business that are not asset management related, but could present conflicts, briefly describe your firm's policies and procedures for dealing or trading through or with these affiliates.

### **Brokerage/Soft Dollars**

1. What is your firm's approach to the use of soft dollar arrangements?

### **Firm Risk**

1. Please provide a short biography or resume of the person(s) who is (are) responsible for the overall risk management of your firm.

## **Exhibit C:** **Product Information**

### **Personnel**

Please provide a list of all key personnel involved in the management of this product (i.e., dedicated to the product), including the lead portfolio manager, marketing personnel, and research analysts. For the lead portfolio manager, please include the size and quantity of portfolios they currently manage within this product and any other strategies they work on. For each individual, please answer in the format below and attach biographies.

<b>Name</b>	<b>Title</b>	<b>Education</b>	<b>Role at Firm</b>	<b>Total Inv. Exp. (years)</b>	<b>Tenure with Firm (years)</b>

### **Assets Under Management**

1. Please fill out the following tables for the current AUM below:
2. Please discuss the reasons for the loss of any accounts indicated in the table below (not including plan terminations).
3. Please provide a representative client list for public funds managed and three client references. For each reference, please include the client's name and the length of the relationship as well as the client's e-mail address and phone number

<b>Account Type</b>	<b>Asset Amounts</b>	<b>Number of Accounts</b>
Corporate		
Public fund		
Union/multi-employer		
Foundation and endowment		
Insurance		
Other, please explain		
Total		

	Public Accounts Lost			Public Accounts Gained		
	Number	Dollars (US\$ Millions)	% of Product Assets	Number	Dollars (US\$ Millions)	% of Product Assets
2014						
2013						
2012						
2011						
2010						
2009						
2008						
2007						
2006						
2005						
2004						

## Investment Philosophy and Process

1. Please briefly describe your firm's investment philosophy.
2. Please discuss your firm's investment strategy, screening processes, and portfolio construction methodology in general and in terms of how you would manage any funds for the ASTO investment Pools?
3. How do you decide to buy or sell a security?
4. Are portfolios managed by individual managers or teams?
5. Do managers follow a "model" portfolio, and if so, to what extent is management permitted to deviate from such a model portfolio?
6. How frequently are investment policy or strategy meetings held?
7. For \$1 NAV portfolios, have any of your portfolios "broken the buck", lost principal, interest or have there been any restrictions on access to funds in any \$1 NAV funds operated by your firm in the past five years?
8. Describe your credit review process.

## Product Risk

1. Please describe how your firm controls portfolio investment risk.

2. How does your firm currently measure/track risk for a public funds account (e.g., standard deviation, beta, other)?
3. Do you stress test your portfolios? If so, how do you stress test your portfolios?

## Research

1. Please provide an overview of your research, including the use of fundamental, technical, and quantitative analyses. Please provide any additional comments that are unique to your firm.
2. What is the distribution of your portfolios managed in this investment approach according to the following capitalization ranges (in U.S. dollars) for the last five years?

Range	% of Portfolio by Year				
	2014	2013	2012	2011	2010
\$0 to \$250 Million					
\$250 Million to \$500 Million					
\$500 Million to \$1 Billion					
\$1 Billion to \$5 Billion					
\$5 Billion to \$10 Billion					
\$10 Billion +					
	100%	100%	100%	100%	100%

## Fees and Account Minimums

1. Please list your fee schedule for this product. Please include performance-based fees, the basis for those fees, and any other fees that may be applicable to the managing of this account.
2. What is the minimum account your firm will accept?
3. Does your firm charge a minimum annual fee? If so, what is this fee? Will it stay the same or change in the future based on some set formula?
4. Under what circumstances are fees negotiable?
5. What is your billing frequency?
6. Have you or will you pay a finder's fee to any third party for business related to this account?

## **Exhibit D:** **Performance**

### **Performance**

1. If your firm is GIPS® compliant, please attach a GIPS-compliant presentation for similarly managed accounts.
2. If your firm is NOT GIPS compliant, please either attach a chart detailing your firm's performance for similarly managed accounts for at least the past 5 years, including as much detail as possible beyond merely performance data, OR fill out the following table:

<b>Year</b>	<b>Gross of Fees Return (%)</b>	<b>Net of Fees Return (%)</b>	<b>Benchmark Return (%)</b>	<b>Number of Portfolios</b>	<b>Total Public Account Composite Assets</b>	<b>Total Firm Assets</b>
2014						
2013						
2012						
2011						
2010						

### **GIPS Compliance**

Please respond to Questions 1–2 if your firm is GIPS compliant:

1. How many years has your firm been GIPS compliant?
2. Has your firm been verified? Please specify the name of your verifier and provide a verification letter. Please provide the number of years your firm has been verified.

Please respond to Questions 3–15 if your firm is NOT GIPS compliant:

3. Please name and define the composite for the strategy that is the subject of this RFP.
4. When presenting gross of fees returns, please disclose if any other fees are deducted in addition to trading expenses.
5. When presenting net of fees returns, please disclose **exactly what** other fees are deducted in addition to the investment management fees and trading expenses.
6. If your firm uses a custom benchmark, please describe the benchmark and the process and rationale behind the creation of this benchmark.
7. Please disclose the policy used to allocate cash to disburse returns, **if applicable**.
8. Please disclose the use of any sub adviser(s) and the periods used.

9. Is there a minimum asset level below which portfolios are not included in a composite? If so, what is that level?
10. Is additional information regarding policies for calculating and reporting returns available upon request?
11. Please disclose if your firm does not value portfolios at the end of each month (i.e., either the last day of the month or the last business day of the month). If so, please explain why not.

**Exhibit E:**  
**ASTO Investment Policy**

Click [here](#) to see the Arizona State Treasury's, Investment Policy Statement.

URL: <http://www.aztreasury.gov/wp-content/investmentpolicy/viewInvestmentPolicy.php>

## **Exhibit F:** **External Pool Balances and Benchmarks**

### **Fixed Income**

Pool 2: State Agencies I – Full Faith and Credit	\$ 977 Million
<ul style="list-style-type: none"> <li>• 75% Merrill 0-1 US Treasury Index</li> <li>• 25% Merrill GNMA Mortgage Master Index</li> </ul>	
Pool 3: State Agencies II – Diversified Asset Mix	\$ 1,260 Million
<ul style="list-style-type: none"> <li>• 50% 3-Month Libor Index</li> <li>• 50% Merrill 1-3 US Broad Market Index</li> </ul>	
Pool 4: State Agencies IV – Restricted Diversified	\$ 1,006 Million
<ul style="list-style-type: none"> <li>• 50% Merrill 6 month US T-Bill Index</li> <li>• 50% Merrill 1-3 Unsub. US Treasury/Agency Index</li> </ul>	
Pool 5: LGIP	\$ 1,077 Million
<ul style="list-style-type: none"> <li>• S&amp;P LGIP Index</li> </ul>	
Pool 7: LGIP-Gov – Full Faith and Credit	\$ 984 Million
<ul style="list-style-type: none"> <li>• 3 Month T-Bill</li> </ul>	
Pool 10: State Operating Yield Restricted	\$ 1,078 Million
<ul style="list-style-type: none"> <li>• 50% 3-Month Libor Index</li> <li>• 50% Merrill 1-3 US Broad Market Index</li> </ul>	
Pool 10: State Operating Tax Free Muni Non-AMT	\$ 301 Million
<ul style="list-style-type: none"> <li>• SIFMA Municipal Swap Index</li> </ul>	
Pool 12: CAWCD Medium-Term	\$ 305 Million
<ul style="list-style-type: none"> <li>• Merrill 1-5 US Domestic Master Index</li> </ul>	
Pool 16 ECDHB Medium-Term	\$ 342 Million
<ul style="list-style-type: none"> <li>• Merrill 1-5 US Domestic Master Index</li> </ul>	
Pool 500: LGIP – Medium-Term	\$ 267 Million
<ul style="list-style-type: none"> <li>• Merrill 1-5 US Domestic Master Index</li> </ul>	



Pool 700: LGIP – FF&C Med Term \$ 146 Million

- 75% Merrill 1-5 US Treasury Index
- 25% Merrill GNMA Mortgage Master Index

Pool 205: Endowment Fixed Income \$ 1,896 Million

- Citigroup Big Index

## **Equities**

Pool 201: S&P 500 Indexed \$ 1,913 Million

- S&P 500 Fund

Pool 203: S&P 400 Indexed \$ 818 Million

- S&P 400 Fund

Pool 204: S&P 600 Indexed \$ 524 Million

- S&P 600 Fund

\*As of March 31<sup>st</sup>, 2015

**Exhibit G:**  
**Proposed Timeline**

<b><u>Event</u></b>	<b><u>Date</u></b>
Distribution of RFP	May 1, 2015
Pre-Offer Conference	May 11, 2015
2 p.m. Arizona time in the State Treasurer's Office	
Conference call information upon request	
Deadline for questions	May 11, 2015
Date for answers to questions	May 22, 2015
Proposals due (no later than 2 p.m. Arizona time)	June 1, 2015
Finalist presentations (if necessary)	TBD